

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FILED ELECTRONICALLY

CELTIC WOMAN LTD.,

Plaintiff,

- against -

CELTIC THUNDER LTD.,

CELTIC MAN LTD., SHARON

BROWNE, WLIW LLC,

ALIGN ENTERTAINMENT LLC

and GUSTAVO SAGASTUME

Defendant.

No 08-CV-0066 (TPG)

X

**MEMORANDUM OF LAW OF GUSTAVO SAGASTUME
IN OPPOSITION TO PRELIMINARY INJUNCTION**

Defendant Gustavo Sagastume hereby opposes the motion of plaintiff Celtic Woman Ltd. for a preliminary injunction.

The motion is not properly directed to Mr. Sagastume because he personally has no authority over the business practices that are the subject of the motion. *See Franklin v. Hart*, 129 F. Supp. 222, 223 (S.D.N.Y. 1955) (“A suit to enjoin threatened injury will not lie where those who are said to threaten the injury admittedly have not the power or ability to carry their threat into effect.”), cited by LOUIS ALTMAN & MALLA POLLACK, CALLMANN ON UNFAIR COMPETITION, TRADEMARKS, AND MONOPOLIES § 23:36 (4th ed. 2007); Declaration of Gustavo Sagastume ¶ 4 (Feb. 12, 2008) (Mr. Sagastume has no authority over the naming of the television show at issue, nor does he have authority over

how plaintiff's mark is or is not used in connection with the marketing of the show or associated products).

With respect to the other issues raised by plaintiff, Mr. Sagastume joins in, and incorporates by reference, the submissions of defendants Sharon Browne, Celtic Thunder Ltd., Celtic Man Ltd. and WLIW LLC in opposition to the motion.

Dated: New York, New York
February 12, 2008

DEBEVOISE & PLIMPTON LLP

By: /s/ Jeremy Feigelson
Jeremy Feigelson (JF-4963)
Susan A. McMahon (SM-4709)

919 Third Avenue
New York, New York 10022
(212) 909-6000

Attorneys for Defendant Gustavo Sagastume